

By: Goolsby

H.B. No. 244

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the licensing and regulation of motor home and towable
3 recreational vehicle exhibition promoters, dealers, and
4 manufacturers.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 2301.001, Occupations Code, is amended
7 to read as follows:

8 Sec. 2301.001. CONSTRUCTION; PURPOSE. The distribution
9 and sale of motor vehicles in this state vitally affects the general
10 economy of the state and the public interest and welfare of its
11 citizens. This chapter shall be liberally construed to accomplish
12 its purposes, including the exercise of the state's police power to
13 ensure a sound system of distributing and selling motor vehicles
14 through:

15 (1) licensing and regulating manufacturers,
16 distributors, converters, exhibition promoters, and dealers of
17 motor vehicles; and

18 (2) enforcing this chapter as to other persons to
19 provide for compliance with manufacturer's warranties and to
20 prevent fraud, unfair practices, discrimination, impositions, or
21 other abuse of the people of this state.

22 SECTION 2. Section 2301.002, Occupations Code, is amended
23 by amending Subdivision (3) and adding Subdivisions (13-a), (13-b),
24 and (13-c) to read as follows:

1 (3) "Broker" means a person who, for a fee,
2 commission, or other valuable consideration, arranges or offers to
3 arrange a transaction involving the sale of a new motor vehicle,
4 other than a person who is:

5 (A) a franchised dealer or a bona fide employee
6 of a franchised dealer acting for the franchised dealer;

7 (B) a representative or a bona fide employee of a
8 representative acting for the representative;

9 (C) a distributor or a bona fide employee of a
10 distributor acting for the distributor;

11 (D) an exhibition promoter, dealer, or
12 manufacturer or a bona fide employee of an exhibition promoter,
13 dealer, or manufacturer acting for the promoter, dealer, or
14 manufacturer; or

15 (E) [~~(D)~~] the owner of the vehicle at any point
16 in the transaction.

17 (13-a) "Exhibition dealer" means a person who is
18 licensed or otherwise legally recognized in this state or another
19 jurisdiction as a motor vehicle dealer and who buys, sells, or
20 exchanges motor homes or towable recreational vehicles at a motor
21 home or towable recreational vehicle exhibition or show in this
22 state.

23 (13-b) "Exhibition manufacturer" means a person who
24 manufactures or assembles new motor homes or towable recreational
25 vehicles to display and offer for retail sale at a motor home or
26 towable recreational vehicle exhibition or show in this state.

27 (13-c) "Exhibition promoter" means a person who

1 organizes and conducts a show or exhibition in this state to display
2 and offer for retail sale motor homes or towable recreational
3 vehicles. The term includes a nonprofit organization that
4 organizes and conducts a show or exhibition in this state for the
5 benefit of its members.

6 SECTION 3. Section 2301.251(a), Occupations Code, is
7 amended to read as follows:

8 (a) Unless a person holds a license issued under this
9 chapter authorizing the activity, the person may not:

10 (1) engage in business as, serve in the capacity of, or
11 act as a dealer, manufacturer, distributor, converter, exhibition
12 promoter, exhibition dealer, exhibition manufacturer,
13 representative, vehicle lessor, or vehicle lease facilitator in
14 this state; or

15 (2) perform or offer to perform repair services on a
16 motor vehicle under a franchise and a motor vehicle manufacturer's
17 warranty, regardless of whether the person sells or offers to sell
18 motor vehicles at the same location.

19 SECTION 4. Subchapter F, Chapter 2301, Occupations Code, is
20 amended by adding Section 2301.2525 to read as follows:

21 Sec. 2301.2525. LICENSE REQUIRED: NEW MOTOR HOME OR TOWABLE
22 RECREATIONAL VEHICLE EXHIBITION. (a) A person may not act as an
23 exhibition promoter or engage in the business of displaying or
24 selling at retail new motor homes or towable recreational vehicles
25 at an exhibition or show in this state unless the person holds an
26 exhibition promoter's license issued by the board under this
27 chapter and complies with this chapter.

1 (b) A person who engages in the retail sale of motor homes or
2 towable recreational vehicles and who is licensed as a motor
3 vehicle dealer in another state or jurisdiction may not provide
4 motor homes or towable recreational vehicles for display and retail
5 sale at an exhibition or show in this state and may not engage in the
6 business of displaying or selling at retail new motor homes or
7 towable recreational vehicles at an exhibition or show in this
8 state unless the person holds an exhibition dealer's license issued
9 by the board under this chapter and complies with this chapter.

10 (c) An exhibition manufacturer may not provide motor homes
11 or towable recreational vehicles for display and retail sale by an
12 exhibition dealer at an exhibition or show in this state unless the
13 manufacturer holds an exhibition manufacturer's license issued by
14 the board under this chapter and complies with this chapter.

15 (d) The board may issue a license under this section to a
16 person whose principal business location is within this state or is
17 outside this state.

18 (e) A person licensed in accordance with this section is not
19 required to hold a franchised dealer's license or obtain a dealer
20 general distinguishing number to display or sell motor homes or
21 towable recreational vehicles at an exhibition or show in this
22 state.

23 SECTION 5. Section 2301.264(a), Occupations Code, is
24 amended to read as follows:

25 (a) The annual fees for a license issued under this chapter
26 are:

27 (1) \$900 for a manufacturer or distributor, plus \$20

1 for each dealer franchised by the manufacturer or distributor;

2 (2) for a franchised dealer:

3 (A) \$175, if the dealer sold fewer than 201 new
4 motor vehicles during the preceding calendar year;

5 (B) \$275, if the dealer sold more than 200 but
6 fewer than 401 new motor vehicles during the preceding calendar
7 year;

8 (C) \$400, if the dealer sold more than 400 but
9 fewer than 801 new motor vehicles during the preceding calendar
10 year;

11 (D) \$500, if the dealer sold more than 800 but
12 fewer than 1,201 new motor vehicles during the preceding calendar
13 year;

14 (E) \$625, if the dealer sold more than 1,200 but
15 fewer than 1,601 new motor vehicles during the preceding calendar
16 year;

17 (F) \$750, if the dealer sold more than 1,600 new
18 motor vehicles during the preceding calendar year; and

19 (G) \$100 for each location separate from the
20 dealership at which the dealer does not offer motor vehicles for
21 sale but performs warranty service work on vehicles the dealer is
22 franchised and licensed to sell;

23 (3) \$25 for an amendment to a license;

24 (4) \$100 for a representative;

25 (5) \$375 for a converter;

26 (6) for a vehicle lessor:

27 (A) \$175, if the lessor leased 200 or fewer motor

1 vehicles during the preceding calendar year;

2 (B) \$275, if the lessor leased more than 200 but
3 fewer than 401 motor vehicles during the preceding calendar year;

4 (C) \$400, if the lessor leased more than 400 but
5 fewer than 801 motor vehicles during the preceding calendar year;

6 (D) \$500, if the lessor leased more than 800 but
7 fewer than 1,201 motor vehicles during the preceding calendar year;

8 (E) \$625, if the lessor leased more than 1,200
9 but fewer than 1,601 motor vehicles during the preceding calendar
10 year; and

11 (F) \$750, if the lessor leased more than 1,600
12 motor vehicles during the preceding calendar year;

13 (7) \$375 for a vehicle lease facilitator; ~~and~~

14 (8) \$200 for an exhibition dealer, plus \$100 for each
15 new motor home or towable recreational vehicle the dealer
16 transports into this state for display or retail sale at a motor
17 home or towable recreational vehicle show or exhibition;

18 (9) \$100 for an exhibition manufacturer, plus \$100 for
19 each new motor home or towable recreational vehicle the
20 manufacturer transports into this state for display or retail sale
21 at a motor home or towable recreational vehicle show or exhibition;

22 (10) a fee in the amount determined by the board for an
23 exhibition promoter; and

24 (11) \$50 for a duplicate license.

25 SECTION 6. Section 2301.358, Occupations Code, is amended
26 to read as follows:

27 Sec. 2301.358. MOTOR HOME OR TOWABLE RECREATIONAL VEHICLE

1 SHOW OR EXHIBITION. (a) An exhibition promoter licensed under this
2 chapter may organize and conduct a motor home or towable
3 recreational vehicle exhibition or show in accordance with this
4 chapter and board rules. [~~A person who holds a license issued under~~
5 ~~this chapter may not participate in a new motor vehicle show or~~
6 ~~exhibition unless:~~

7 [~~(1) the person provides the board with written notice~~
8 ~~at least 30 days before the date the show or exhibition opens; and~~

9 [~~(2) the board grants written approval.~~]

10 (b) Nothing in this section exempts a franchised dealer or
11 dealer from complying with a law or rule relating to the sale and
12 delivery of a new motor home or towable recreational vehicle. [~~A~~
13 ~~person who holds a license issued under this chapter may not sell or~~
14 ~~offer for sale a new motor vehicle at a show or exhibition, but~~
15 ~~dealership personnel may be present to aid in showing and~~
16 ~~exhibiting new motor vehicles.~~]

17 (c) This section does not prohibit the sale of an [~~a towable~~
18 ~~recreational vehicle, motor home,~~] ambulance, fire-fighting
19 vehicle, or tow truck at a show or exhibition if:

20 (1) the show or exhibition is approved by the board;
21 and

22 (2) the sale is not otherwise prohibited by law.

23 (d) A rule adopted by the board regulating the off-site
24 display or sale of towable recreational vehicles must include a
25 provision that authorizes the display and sale of towable
26 recreational vehicles at a private event in a trade area that would
27 not otherwise qualify for the private event under the application

1 of general participation requirements for organized dealer shows
2 and exhibitions.

3 (e) The retail sale in accordance with this section of a
4 motor home or towable recreational vehicle that will be registered
5 outside this state and will be transported outside this state
6 within 72 hours of the exhibition or show by the purchaser or an
7 agent of the purchaser for use outside this state is not subject to
8 a tax imposed under Chapter 152, Tax Code, provided the purchaser or
9 agent complies with Section 152.092, Tax Code.

10 SECTION 7. Section 503.024(b), Transportation Code, is
11 amended to read as follows:

12 (b) For the purposes of Section 503.021, a person is not
13 engaging in business as a dealer by:

14 (1) selling or offering to sell a vehicle the person
15 acquired for personal or business use to a person other than a
16 retail buyer if the sale or offer is not made to avoid a requirement
17 of this chapter;

18 (2) selling, in a manner provided by law for the forced
19 sale of vehicles, a vehicle in which the person holds a security
20 interest;

21 (3) acting under a court order as a receiver, trustee,
22 administrator, executor, guardian, or other appointed person;

23 (4) selling a vehicle the person acquired from the
24 vehicle's owner as a result of paying an insurance claim if the
25 person is an insurance company;

26 (5) selling an antique passenger car or truck that is
27 at least 25 years of age; [~~or~~]

1 (6) selling a special interest vehicle that is at
2 least 12 years of age if the person is a collector; or

3 (7) displaying or selling a motor home or towable
4 recreational vehicle at a recreational vehicle show or exhibition
5 in accordance with Chapter 2301, Occupations Code.

6 SECTION 8. (a) Not later than January 1, 2006, the Motor
7 Vehicle Board of the Texas Department of Transportation shall adopt
8 the rules and establish the licensing categories required by
9 Chapter 2301, Occupations Code, as amended by this Act.

10 (b) An exhibition promoter, exhibition dealer, or
11 exhibition manufacturer is not required to comply with the
12 licensing requirements of Section 2301.2525, Occupations Code, as
13 added by this Act, before January 1, 2006.

14 SECTION 9. This Act takes effect September 1, 2005.